

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 555

AN ACT

To repeal section 91.030, RSMo, and to enact
in lieu thereof two new sections relating to
the supply of electrical power and energy to
aluminum smelting facilities, with an
emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Section 91.030, RSMo, is repealed and two new
sections enacted in lieu thereof, to be known as sections 91.026
and 91.030, to read as follows:

91.026. 1. As used in this section, the following terms
mean:

(1) "Commission", the Missouri public service commission;

(2) "Aluminum smelting facility", a facility whose primary
industry is the smelting of aluminum and primary metals, Standard
Industrial Classification Code 3334, is located in a county of

1 the second classification, which has used over three million
2 megawatt hours of electricity during a calendar year, and has had
3 electrical service provided to said facility in the past, in part
4 or whole, by a municipally owned utility and, in part or whole,
5 by an electric generating cooperative owned by rural electric
6 cooperatives;

7 (3) "Delivery services", transmission, distribution, or
8 metering of electric power and energy or services ancillary
9 thereto or related services;

10 (4) "Municipally owned utility", a utility as defined in
11 subdivision (1) of subsection 1 of section 91.025;

12 (5) "Local electric service utility", an electrical
13 corporation engaged in the furnishing of local electric service
14 to consumers under a certificate of convenience and necessity
15 issued by the commission, any municipal electric distribution
16 system or electric cooperative.

17 2. Notwithstanding any provisions of law to the contrary,
18 any aluminum smelting facility shall have the right to purchase
19 and contract to purchase electric power and energy and delivery
20 services from any provider, wherever found or located, at
21 whatever rates or charges as contracted for, and such periods or
22 times as is needed or necessary or convenient for the operation
23 of such aluminum smelting facility and for no other purpose,
24 notwithstanding any past circumstances of supply. Any aluminum
25 smelting facility purchasing or contracting to purchase electric

1 power and energy pursuant to this section shall not resell more
2 than thirty-five percent of such electric power and energy to any
3 party except the original providers of such electric power and
4 energy.

5 3. Notwithstanding the provisions of section 91.025,
6 section 393.106, RSMo, and section 394.315, RSMo, to the
7 contrary, any provider of such electric power and energy and
8 delivery services, whether or not otherwise under Missouri
9 regulatory jurisdiction, shall have the right to transact for and
10 sell electric power and energy and delivery services to an
11 aluminum smelting facility. Any transactions or contracts
12 pursuant to this section for electric power and energy and
13 delivery services shall not be subject to the jurisdiction of the
14 commission with regard to the determination of rates.

15 4. When current electric power and energy is being supplied
16 in part or in whole by a municipally owned utility and in part or
17 whole by an electric generating cooperative owned by rural
18 electric cooperatives and not under any contract authorized
19 pursuant to this section, a replacement contract pursuant to the
20 provisions of subsections 2 and 3 of this section shall provide
21 for all of the electric power and energy and delivery services
22 requirements of the aluminum smelter and shall meet the following
23 criteria:

24 (1) The aluminum smelting facility's change of supplier
25 shall have no negative financial impact on any past supplier or

1 suppliers or to other electricity customers of such supplier or
2 suppliers;

3 (2) The supply arrangements made by the aluminum smelting
4 facility when operated in coordination with the local electric
5 infrastructure shall not reduce the reliability of service to
6 other customers or the safety of any person;

7 (3) The aluminum smelting facility's change of electric
8 supplier shall not cause a reduction in tax revenue to the state
9 of Missouri or any political subdivision;

10 (4) No billing or metering functions of any municipally
11 owned utility will be changed or affected as a result of a change
12 of electric supplier by such aluminum smelting facility.

13 5. No local electric service utility provider of electric
14 power and energy or delivery services shall have any obligation
15 to supply or deliver backup, peaking or emergency power to a
16 aluminum smelting facility exercising its rights under this
17 section, nor liability for inability or failure to provide such
18 power, except as may be established by written contract.

19 6. Once an aluminum smelting facility has purchased
20 electric power pursuant to its rights pursuant to this section,
21 no past supplier of energy and related services shall have any
22 obligation to provide electric power and energy and delivery
23 services to such aluminum smelting facility except as may be
24 established by written contract.

25 7. The provisions of this section recognize highly unique

1 circumstances of aluminum smelting facilities and are not to be
2 interpreted as condoning or conceding the suitability of retail
3 electric restructuring for any customer or class of customers in
4 the state of Missouri.

5 91.030. Any city, town or village in this state, having
6 authority to maintain and operate an electric light and power
7 plant, may procure electric current and ancillary services for
8 that purpose from any other city, owning and operating such
9 plant, or other lawful supplier and to that end may enter into a
10 contract therefor with such city or other supplier having such
11 plant for such period and upon such terms as may be agreed by the
12 contracting parties solely on the approval by the governing board
13 or council of such municipality owned or operated electric power
14 system or by its duly authorized representative without further
15 regulatory or public approval, notwithstanding any provisions of
16 law to the contrary.

17 Section B. Because immediate action is necessary in order
18 to ensure the continued operation of certain aluminum smelting
19 facilities in this state, section A of this act is deemed
20 necessary for the immediate preservation of the public health,
21 welfare, peace and safety, and is hereby declared to be an
22 emergency act within the meaning of the constitution, and section
23 A of this act shall be in full force and effect upon its passage
24 and approval.